



Internal Revenue Service Criminal Investigation

## Tax Fraud Alert

# Financial Institution Fraud

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Overview

IRS Keyword: Fraud

Fiscal Year 2004

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Criminal Investigation's (CI) Financial Institution Fraud Program, addresses criminal violations involving fraud against banks, savings and loan associations, credit unions, check cashers, and stockbrokers. Criminal Investigation is a major contributor in the effort to combat financial institution fraud, and the United States Attorneys' recognize CI's financial investigative expertise in this complex area.

The ability to bring income tax and money laundering charges augments prosecutor's effectiveness in combating fraud committed against financial institutions, whether the violators work within or outside of the financial institution.

During FY2001 CI continued its involvement in bank fraud working groups and in financial institution task forces at the field level, and the Interagency Bank Fraud Working Group at the Headquarters level. This group is composed of regulatory and law enforcement agencies that either regulate financial institutions or investigate fraud committed against them. The group seeks to improve coordination between agencies and regulators in the investigation and prosecution of financial institution fraud.

Criminal Investigation recognizes the potential for individuals and organizations to use the Internet to facilitate income tax evasion and money laundering. Criminal Investigation has taken proactive steps to combat fraud involving the Internet and is an active participant in the Cyberbanking Working Group to study electronic money and devise safeguards to protect consumers. This group is comprised of representatives of regulatory and law enforcement agencies.

The use of Sight Drafts, also known as Bills of Exchange, to defraud financial institutions has proliferated with the upsurge in use by radical militia groups. These fictitious financial instruments resemble bank cashier's checks and have been issued in amounts exceeding \$10 billion. Criminal Investigation has taken an aggressive role in these investigations by using the charge of Title 18 USC Section 514 (Fictitious Obligations). This statute was enacted to prosecute individuals and groups who use sham instruments to defraud financial institutions as well as the IRS.

Currency Transaction Reports and Suspicious Activity Reports continue to be an effective source of information regarding financial institution fraud. Criminal Investigation follows up on Currency Transaction Reports and/or Suspicious Activity Reports with the reporting financial institution. Direct contact is made with the financial institution, enhancing the constructive and cooperative relationship CI has established with the banking industry.

## Statistical Data

### How to Interpret Criminal Investigation Data

Since actions on a specific investigation may cross fiscal years, the data shown in cases initiated may not always represent the same universe of cases shown in other actions within the same fiscal year.

	FY 2004	FY 2003	FY 2002
Criminal Investigations Initiated	152	167	141
Prosecution Recommendations	109	127	92
Indictments/Informations	88	108	85
Sentenced	94	83	96
Incarceration Rate*	85.1%	77.1%	86.5%
Average Months to Serve	37	33	49

\*Incarceration may include prison time, home confinement, electronic monitoring, or a combination thereof.

### Examples of Employment Tax Investigations

Examples of financial institution fraud investigations are excerpts from public record documents on file in the court records in the judicial district in which the cases were prosecuted.

#### **Former Investment Advisor Sentenced to 50 Months for \$3.3 Million Client Embezzlement and Tax Evasion**

On September 28, 2004, in Trenton, NJ, Alexis Arlett was sentenced today to 50 months in federal prison and ordered to pay \$1.9 million in restitution to her victims for embezzling \$3.3 million from client investment accounts and evading more than \$900,000 in federal income taxes. Arlett pleaded guilty on July 16, 2003, to one count of wire fraud and one count of income tax evasion. Arlett admitted then that she had used the millions of dollars embezzled from clients of her company to finance a lavish lifestyle, including the purchase of at least \$1.3 million in jewelry, hundreds of thousands of dollars worth of paintings and other art work and tens of thousands of dollars in clothing and accessories. Arlett admitted that from September 1995 through November 2000, she routinely submitted to the broker-dealer fraudulent claims for advisory fees that greatly exceeded those which she was entitled to under the fee structure. In an effort to cover-up the embezzlement, she advised investment clients that the monthly account statements issued by the broker-dealer, which accurately revealed the true magnitude of the embezzlement of funds from their individual investment accounts, contained billing and accounting errors. Arlett admitted that she also provided investment clients with altered monthly account statements that grossly inflated the value of their investment accounts. Furthermore, Arlett provided clients with advisory fee invoices that contained grossly inflated figures for the value of their investment accounts in order to justify her exorbitant claims for advisory fees. Arlett also admitted that she failed to declare the embezzled funds as income on the federal tax returns she filed jointly with her husband for the tax years 1996 through 1999, evading the payment of more than \$922,000 in taxes.

### **Former Business Consultant Sentenced to 37 Months in Money Laundering Conspiracy**

On September 14, 2004, in Washington, DC, Morton Okin, former business consultant for CRM Communications, was sentenced to 37 months in prison to be followed by 5 years supervised release. Okin was also ordered to pay \$11,096,210 in restitution. CRM Communications was a New York corporation in the business of providing telecommunications equipment and services. In April 1997, CRM obtained a line of credit from Capital Factors, Inc. which was secured by CRM's accounts receivable reports. The reports were used to determine the amount of funds to advance CRM. According to court documents, in or about February 1998, Okin joined a conspiracy with several other individuals to defraud Capital Factors and launder monies through bank accounts within the District of Columbia and surrounding areas. Okin and his co-conspirators created false invoices, set up sham corporations, and altered CRM's monthly bank statements to make it appear that CRM's business and accounts receivables were increasing. The false financial information were transmitted to Capital Factors to support the advance of funds. As a result of the scheme, Union Planters, which purchased Capital Factors, incurred a loss of approximately \$13 million.

In addition to Okin, Calvin C. McCants, the organizer of the conspiracy, was sentenced to 9 years in prison in June 2004. A third co-conspirator, Howard Weinstein, was sentenced in August 2004 to five years of probation. Both McCants and Weinstein were ordered to pay restitution for their part in the \$13 million money laundering conspiracy.

### **Defendant Sentenced to 77-Months Prison term for Bank Fraud and Money Laundering**

On August 31, 2004, in Miami, FL, David Forbes, Jr. was sentenced to 77 months in prison, followed by 5 years supervised release, and ordered to pay restitution of \$292,068, for Forbes' involvement in a bank fraud and money laundering scheme. From July 1998 until March 2000, Forbes conspired to enrich himself unlawfully by depositing stolen, forged, and counterfeited checks into bank accounts and then arranging for the withdrawal of monies against those checks. Forbes also concealed the unlawful proceeds by moving them through various individual and corporate bank accounts that he and his unnamed co-conspirators controlled.

### **Interstate RV President and Vice President Sentenced for Money Laundering and Bank Fraud**

On June 18, 2004, in Austin, TX, Jim Rich, president of Interstate RV Center Inc. (IRV), was sentenced to 60 months incarceration; 36 months supervised release, and ordered to pay \$5,015,500 restitution and a \$700 special assessment fee. Rich was found guilty by jury on March 29, 2004, of four counts of money laundering, money laundering conspiracy, conspiracy to commit bank fraud and aiding and abetting bank fraud. Also sentenced was Jeremy Baker, Vice President and General Manager of IRV. Baker received 24 months in prison; 36 months supervised release, and ordered to pay \$5,015,500 restitution and \$200 special assessment fee. Baker pled guilty on October 6, 2003, to conspiracy to commit bank fraud and money laundering.

During 1997 and 1998, IRV borrowed millions of dollars from Pacific Southwest Bank (PSB). To ensure continued credit, IRV submitted to PSB, fraudulent financial statements of profit and loss, indicating IRV was in good financial standing. Additionally, during regular floor plan inspections conducted by an independent contractor working for PSB, IRV would "assist" by misrepresenting previously sold RV's as still being present and owned by IRV. To further the fraud, IRV customers were instructed to bring in their RV's for maintenance at the time of these inventories to falsely indicate presence of additional "unsold" RV's on IRV lots. More than once IRV requested funding from PSB for RV's previously sold and actually collected double payments, one from the customer and one from the PSB "floor plan" loan. In late October 1998, after IRV defaulted on PSB loans for RV's previously sold, PSB sent an employee to personally conduct an inventory audit. The audit revealed that approximately 100 out of 154 RV's with a total loan value greater than \$4,000,000 were missing. These were RV's for which PSB had advanced funds but had never been repaid.

### **Escondido Man Sent to Prison for Duping Investors with Non-Existent Mutual Fund**

On May 3, 2004, in Los Angeles, CA, Raymond P. Warren was sentenced to 33 months in prison and ordered to pay \$385,453.25 in restitution after pleading guilty to securities fraud and tax evasion. Court documents showed that Warren collected over \$385,000 from seven victims and converted the money for his own personal use. Warren received \$270,600 in 1998 and over \$114,800 in 1999 in the scheme and failed to report the money on his federal income tax returns. His failure to report the additional income resulted in over \$121,800 in additional income taxes that he did not pay. Warren admitted that he never intended to invest the money in any securities.

### **Geoffrey Clement Sentenced in \$5 Million International Fraud and Money Laundering Scheme**

On April 23, 2004, in Denver, CO, Geoffrey Chris Clement was sentenced to 156 months in prison for fraud and money laundering. Clement was also ordered to pay restitution to the victims totaling \$3.9 million. Clement falsely represented to prospective investors in Australia that he had the ability to make high yield, low risk investments through a company controlled by Clement which was organized under the laws of the Isle of Man, Channel Islands, United Kingdom. Clement told investors they could expect a return of four to eight percent per month on their investment. The victims lost an estimated \$5 million as a result of the scheme.

### **Real Estate Company Owner is Sentenced to 27 Months Imprisonment for Money Structuring**

On April 13, 2004, in Providence, RI, William Ricci was sentenced to 27 months in prison fined \$20,000 and ordered to perform 1,000 hours of community service for a money-structuring scheme. Ricci admitted that he generated the appearance of business cash flow by cashing checks at a check-cashing company and depositing cash and money orders generated by those checks into various business accounts. In February 1998, Ricci embarked on a scheme to obtain financing for his various real estate companies by submitting fraudulent documentation that artificially inflated the value of the companies. Ricci generated the false appearance of cash flow in those companies by cashing a series of checks all for amounts of less than \$10,000, and depositing the cash and money orders obtained with those checks into his company accounts. Some of the checks Ricci cashed were payable to himself. Others were payable to existent and non-existent third parties who were made to appear as if they were subcontractors. Ricci admitted that, between February 1999 and December 1999, he structured approximately \$1,307,498 with 400 checks, all for amounts less than the \$10,000 reporting level.

### **Former Bank Officer Sentenced**

On January 21, 2004, in Nashville, TN, Jimmy Lee Birdwell was sentenced to serve 46 months in federal prison followed by 3 years of supervised release. Birdwell was also ordered to pay \$950,000 in restitution to the Citizens Bank of Gainesboro in Gainesboro, TN. Birdwell was a vice-president and loan officer of Citizens Bank of Gainesboro. On October 11, 2001, Birdwell, Joyce C. "Joy" Hall, Fred Rowland and Lisa Hartman were each charged in a 45 count superseding indictment. The alleged charges included bank fraud, money laundering (including promotion, concealment, engaging in monetary transactions in excess of \$10,000 and money laundering conspiracy), aiding and abetting and conspiracy. Also, a \$1.5 million criminal forfeiture count was charged in the superseding indictment. Birdwell and Rowland pled guilty to bank fraud and money laundering on January 24, 2003 and January 10, 2003, respectively. Hall, following a two-week trial in July 2003, was convicted by a jury for the Middle District of Tennessee on 22 counts. Rowland testified on behalf of the government during the trial. He is to report to prison on February 2, 2004. Hall is currently incarcerated in a federal facility in Kentucky.

### **Father/Son Businessmen Sentenced to Federal Conspiracy Charge**

On September 26, 2003, in Dallas, TX, Richard Dale (Dale) Sterritt Jr. was sentenced to serve 60 months imprisonment and ordered to pay \$13,069,425.00 in restitution after pleading guilty to conspiracy to commit securities fraud, money laundering and filing false income tax returns. Richard Dale Sterritt, Sr. plead guilty to the same charges and is scheduled to be sentenced on October 24, 2003. From July 1991 to the beginning of September 1998, Richard Dale Sterritt, Jr. was Chairman of the Board of Directors,

President, and Chief Executive Officer of Continental Investment Corporation (CIC). CIC's common stock was traded over the counter on the National Association of Securities Dealers' Bulletin Board Pink Sheets System. Richard Dale Sterritt, Sr. owned substantial amounts of CIC stock. The Sterritts admitted that they conspired together, and with Fred Royer, to manipulate CIC's stock price. Royer was a licensed securities broker-dealer and was the President and CEO of another closely-held company controlled by the Sterritts. Royer pled guilty to his role in the scheme and was sentenced this month to three years probation. The Sterritts made it appear that the stock was in demand by transferring stock between CIC and other entities, which they represented to be controlled by third parties. The Sterritts admitted that they well knew that by transferring stock among companies they controlled and influenced, that the CIC stock would appear to be in demand or the value of CIC assets would be inflated, thereby artificially raising the stock price. The Sterritts admitted that as a result of their actions, individual investors purchased CIC stock at inflated prices.

### **Former Ames Man Sentenced for Financial Crimes**

On September 17, 2003, in Des Moines, IA, Steven Tod Davis was sentenced to 37 months in prison on bank fraud and money laundering charges. Davis was also ordered to serve five-years supervised release and fined \$10,000 and ordered him to make restitution in the amount of \$1,860,403.50. At his plea, Davis stipulated that he formed a company called Eastgate Development to purchase and develop a 40-acre parcel of land in Ames, Iowa. The land was to be developed into commercial lots for resale. During November and December of 1997, Davis raised a total of \$1,200,000 from twenty-four investors, each of whom contributed approximately \$50,000 for the purchase of the land. Davis further stipulated that in May of 1998, he obtained a \$1,800,000 line of credit from the First National Bank, and in June of 1999 obtained a \$1,500,000 line of credit from the Hardin County Savings Bank. Davis represented to both financial institutions that the purpose of the loans was to develop the infrastructure of the property. Davis stipulated that he used approximately \$1,800,000 of the loan money for purposes other than developing the property, including using the money for his own personal use and using the money to inject funds into other business ventures. Davis also admitted that he used \$300,000 of the money to make a payment on a jet aircraft loan with another financial institution.

### **Mortgage Loan Officer Sentenced after Being Convicted on Money Laundering and Wire Fraud Charges**

On August 18, 2003, in Greenbelt, MD, Alton F. Bivins was sentenced to 57 months in prison followed by three years of supervised release and ordered to pay restitution in the amount of \$297,188. As the loan officer for the First Capital Acceptance Corporation and Mortgage Corporation of Maryland Bivins assisted his sister Karen Bivins and Donald Osorio in spending their drug proceeds to purchase real estate. Bivins submitted false loan applications and documentation including false W-2's and false employment verification to obtain the mortgage loans. The drug proceeds of Osorio and Bivins were used for down payments and closing costs to complete the transactions. The properties involved were valued at over \$1.1 million dollars.

### **Real Estate Broker Gets 17 1/2 Years**

On October 27, 2003 in Fairview Heights, IL, Marvis "Swamp Dog" Bownes of O'Fallon was sentenced to 17 1/2 years in prison. In April, Swamp Dog plead guilty to a two count information charging violations of mail fraud and money laundering. Swamp Dog admitted to defrauding numerous mortgage companies and individual home buyers in the East St. Louis metropolitan area relative to approximately 80 residential sales. Swamp Dogs' fraudulent conduct included false seller carryback loans, false gift letters, false property appraisals, backdated bond for deed contracts, false verifications of rent, false verification of employment, and false W-2 forms. Relative to the fraudulent residential sales, Swamp Dog received approximately \$4,000,000 in gross proceeds.

### **Suburban Safecracker Sentenced to Prison**

On October 17, 2003, in Sherman, TX, Todd Erling Becker, was sentenced to 51 months in prison after pleading guilty in March to 11 counts of money laundering. Becker committed a series of burglaries in

which business safes and ATMs were broken open or stolen and the money taken. Becker admitted that between May 2001 and December 2001, he and several accomplices burglarized about a dozen businesses in Austin, Texas, Flower Mound, Texas and several counties in Florida, stealing more than \$300,000.

### **Gainesboro Real Estate Investor Sentenced in Bank Fraud and Money Laundering Conspiracy Case**

On October 21, 2003, in Nashville, TN, Joyce C. "Joy" Hall was sentenced to serve 70 months in prison followed by three years of supervised release. Hall was ordered to pay \$571,496.81 in restitution. In July 2003, a jury convicted Hall on 22 counts of conspiracy, bank fraud, and money laundering. Testimony during Hall's trial established that Hall, a real estate investor, Birdwell, a former vice-president of the Citizens Bank of Gainesboro, and others conspired to buy, sell and transfer property with the intent to defraud Citizens Bank. Hall participated in the scheme by placing pieces of property in the names of people other than that of the true owner in order to conceal the true ownership of the property. Some of the people in whose names the pieces of property were placed had no knowledge their names were being used for that purpose. The proof also established Hall participated in the scheme by falsifying the qualifications of people seeking to borrow money from Citizens Bank to purchase real estate from or through Hall by fraudulently increasing their income and/or the value of their assets. The proof established Hall received money or the benefit from a number of the loans which were made based upon the false information or false names provided to the Bank.

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### **Where Do You Report Suspected Tax Fraud Activity?**

If you suspect tax fraud or know of an abusive return preparer, you should report this activity to your nearest Internal revenue service office. This information can be communicated by phone or in writing to your local IRS office. You can contact the IRS by phone at 1-800-829-0433.